

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Crystal Alvarez and Jose Alvarez,

Civil No. 10-4124 (PJS/JJG)

Plaintiffs,

v.

M&I Bank FSB, Mortgage Electronic
Registration Systems, Inc. and John &
Jane Does 1-10,

**REPORT AND
RECOMMENDATION**

Defendants.

The complaint in this matter was filed on October 1, 2010 and a summons was issued. The summons has never been returned and no proof of service has been filed. On February 9, 2011, this Court issued an order requiring the plaintiff to file proof of service and notify the defendants of their obligation to respond to the Complaint within ten (10) days of service of the notice. If no answer was filed after the notice, the plaintiff was directed to file an application for entry of default within twenty (20) days. Plaintiff was warned in the order that failure to comply with the order could result in dismissal of the action for failure to prosecute.

To date, no proof of service of the complaint or the notice has been filed nor has an application for entry of default. More than thirty (30) days have passed and plaintiff has not taken any action.

RECOMMENDATION

Based on all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that Plaintiff's Complaint for Recission, Damages and Jury Trial (Doc. No. 1) be **DISMISSED**; and that the matter be **DISMISSED** without prejudice.

Dated: March 18, 2011

S/ Jeanne J. Graham

JEANNE J. GRAHAM

United States Magistrate Judge

NOTICE

Pursuant to D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by **April 4, 2011**. A party may respond to the objections within ten (10) days after service thereof. Any objections or responses filed under this rule shall not exceed 3,500 words. A District Judge shall make a de novo determination of those portions to which objection is made. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the United States Court of Appeals for the Eighth Circuit.